

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FEB 26 2008

OFFICE OF
MANAGING DIRECTOR

Diosdado Bayangos, Manager
Federal Regulatory Reporting
MCI, Inc.
1133 Nineteenth Street, NW
Washington, D.C. 20038
and
22001 Loudoun County Parkway
Ashburn, VA 20147

Re: Request to Waive Late Payment Penalty
For FY 2005 Regulatory Fee
Fee Control No. RROG-07-00008177

Dear Mr. Bayangos:

This responds to your request dated November 20, 2006 (*Request*) for waiver of the penalty for late payment of the Fiscal Year (FY) 2005 regulatory fee, filed on behalf of MCI, Inc. and Subsidiaries (MCI). Our records reflect that MCI paid its \$16,836,765.31 FY 2005 regulatory fee in two payments: a \$16,376,921.14 payment on September 7, 2005, the due date, and a \$459,844.17 payment on December 20, 2006. This second payment, which was not timely received, resulted from MCI's revision of the 2005 Form 499-A Telecommunications Reporting Worksheet to reflect previously unreported revenues.¹ Our records also reflect that you have paid the \$114,961.04 penalty associated with the \$459,844.17 regulatory fee payment. As explained below, we deny your request.

You claim that "we did not receive your bill dated September 22, 2006 that you sent a [*sic*] cover letter to MCI INC [*sic*] and Subsidiaries – Consolidated at 22001 Loudoun County Parkway, Ashburn VA 20147."² You assert that "[n]ormally, [the] billing statement is sent to 1133 Nineteen [*sic*] Street, NW Washington DC 20036[.], which is the address registered with your office."³ You claim that "[h]ad you sent the bill to that

¹ The Regulatory Fees Fact Sheet for Interstate Telecommunications Service Providers (ITSP) for FY 2005 states that the ITSP's regulatory fees are based on the information in its FCC Form 499-A, which was due on April 1, 2005. The FCC prepares a Form 159-W based on revenue information provided on the FCC Form 499-A, including any updates processed as of June 30, 2005. *Regulatory Fees Fact Sheet, What You Owe—Interstate Telecommunications Service Providers*, July 2005 at 3 (ITSP Fact Sheet).

² *Request* at 1.

³ *Id.*

address, our Legal Department would have forwarded the billing statement to us for payment processing.”⁴ You maintain that “[w]e only knew of this outstanding balance for our 2005 regulatory fee from the time we received the red light alert.”⁵ You state that “[w]e promptly acted and called your Red Light System Display System Help Line and [after coordinating with FCC staff] . . . , agreed to the final settlement of \$459,844.17 after applying our 2004 refund.”⁶ You request waiver of the penalty because of the “FCC’s error in sending [the bill] . . . to the wrong address.”⁷

Our records reflect that after making a \$16,376,921.14 FY 2005 regulatory fee payment on the September 7, 2005 due date, MCI, on September 15, 2005, filed a corrected 2005 FCC Form 499-A. Based on the corrected Form 499-A, the Commission, under cover of a letter dated September 22, 2006, sent MCI an FCC Form 159B, Remittance Advice, Bill for Collection (*Bill*), with respect to the FY 2005 regulatory fee in the amount of \$2,350,083.16.⁸ The *Letter* stated that the Commission will “waive[] the 25 percent late payment penalty on this additional Regulatory fee[], if it is paid within the next 30 days.”⁹ The *Letter* further stated that “[a]t the end of this 30-day grace period, the 25 percent late payment fee will automatically be assessed and your company will be red lighted as required by [the Debt Collection Improvement Act].”¹⁰ On November 15, 2006, after MCI failed to pay the *Bill* within the grace period, Commission staff sent you a facsimile copy of both the *Letter* and *Bill*.¹¹ Subsequent discussions between you and Commission staff resulted in a reduction of the amount due on the FY 2005 regulatory fee to \$459,844.17, along with a \$114,961.04 penalty on the late payment, which total amount was paid on December 20, 2006.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ See Letter from Marvin Washington, Chief, Revenue & Receivables Operations Group, FCC, to MCI Inc. and Subsidiaries – Consolidated (Sept. 22, 2006) (*Letter*) (“it appears that you owe an additional FY 2005 regulatory fee of \$2,350,083.16”).

⁹ *Id.* at 1.

¹⁰ *Id.*

¹¹ Facsimile Letter from Henry Morrow, FCC, to Dick Bayangos, (Nov. 11, 2006).

The Communications Act of 1934, as amended, requires the Commission to assess a penalty of 25 percent on any regulatory fee not paid in a timely manner.¹² The Commission's rules provide that a timely payment is one received at the Commission's lockbox bank by the due date.¹³ It is the obligation of the licensees responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year. Your request does not indicate or substantiate that MCI met this obligation with respect to the \$459,844.17 partial payment of the regulatory fee submitted on December 20, 2006. Moreover, MCI failed to submit the balance due within the additional 30-day grace period provided by the *Letter*. The Commission takes great care to inform its licensees of the due dates, amounts of the fees, and payment methods in public notices and fact sheets, which information it also posts on its web site, www.fcc.gov. For the FY 2005 regulatory fees, the Commission timely released several public notices and news releases informing licensees of the September 7, 2005, deadline for filing regulatory fees and explaining how to calculate the ITSP regulatory fee, and posted these items on its web site.¹⁴ The Commission has repeatedly held that "[l]icensees are expected to know and comply with the Commission's rules and regulations and will not be excused for violations thereof, absent clear mitigating circumstances."¹⁵ Further, contrary to your assertion that the *Bill* was mailed to the wrong corporate office, the FRN information registered in the FCC database regarding the licensee as supplied by MCI was the address to which the *Bill* was sent. In any event, the failure of MCI staff to forward official Commission correspondence, *i.e.*, the *Letter* and the *Bill*, from the corporation's Ashburn, Virginia address to its Washington, D.C. address provides no grounds for waiver of the rules or the penalty. We therefore find that MCI did not meet its obligation to file its FY 2005 regulatory fee with respect to the \$459,844.17 balance to be received by the Commission

¹² 47 U.S.C. §159(c)(1).

¹³ 47 C.F.R. §1.1164.

¹⁴ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2005, Report and Order*, 20 FCC Rcd 12259 (2005); Public Notice, *Payment Methods and Procedures for Fiscal Year 2005 Regulatory Fees*, DA 05-2087 (July 27, 2005) (announcing the September 7, 2005 filing deadline and stating that late payments will be assessed a 25 percent late payment penalty); Public Notice, *Fee Filer Now Available for 2005 Regulatory Fees*, DA 05-2088 (Aug. 1, 2005) (reminding of filing deadline); *Regulatory Fees Fact Sheet, What You Owe – Interstate Telecommunications Service Providers (ITSP) for FY 2005* (July 2005) (stating "that there is a penalty for not submitting the entire fee in a timely manner" and providing instructions for calculating and paying the FY 2005 regulatory fee, with specific instructions for those who did not receive a bill).

¹⁵ See *Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), citing *Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970).

Diosdado Bayangos, Manager

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in a timely manner. Accordingly, we deny your request for waiver of the penalty for late payment of the fiscal year 2005 regulatory fee.

If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

for 
Mark Stephens
Chief Financial Officer

RROG-007-0000817

November 20, 2006

Ms. Regina Dorsey
Federal Communications Commission
Revenue & Receivables Operations Group
Washington, DC 20554

Dear Ms. Dorsey,

May we request you to waive the 25% penalty for our 2005 amended regulatory fee. Attached are the following for your review:

1. FCC Registration Detail containing the mailing address of MCI Inc at 1133 Nineteen Street, NW Washington, DC 20038.
2. Cover letter dated Sept 22, 2006 with mailing address at 22001 Loudoun County Parkway Ashburn VA 20147 together with the bill dated September 22, 2006
3. Bill dated November 15, 2006 for the revised 2005 regulatory fee after applying the 2004 credit.

We did not receive your bill dated September 22, 2006 that you sent a cover letter to MCI INC and Subsidiaries – Consolidated at 22001 Loudoun County Parkway, Ashburn VA 20147. Normally, billing statement is sent to 1133 Nineteen Street, NW Washington DC 20036 which is the address registered with your office. Had you sent the bill to that address, our Legal Department would have forwarded the billing statement to us for payment processing.

We only knew of this outstanding balance for our 2005 regulatory fee from the time we received the red light alert. We promptly acted and called your Red Light Display System Help Line and since then coordinated with Mr. Henry Morrow, FCC. We agreed to the final settlement of \$ 459,844.17 after applying our 2004 refund. We received your amended 2005 bill for that amount but with a 25% surcharge being added to the bill. While we agree with the \$459,844.17 and are in the process of promptly forwarding payment, we request that the penalty be waived as a result of the FCC's error in sending it to the wrong address.

Should you need more information, please feel free to call us and hoping for your favorable response. Thank you for your usual prompt attention.

Very truly yours,

Diosdado Bayangos
Manager
Federal Regulatory Reporting